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February 14, 2023

Via ECF

Hon. Paul G. Gardephe
United States District Court
Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

Re: *In re Bed Bath & Beyond Inc. Section 16(b) Litigation*, No. 22 Civ. 9327

Dear Judge Gardephe:

On January 27, 2023, the Court set a briefing schedule for Defendants' omnibus motion to dismiss in this consolidated action, with Defendants' motion papers due on February 15, 2023. Yesterday evening (February 13, 2023), Plaintiff Judith Cohen filed an amended complaint. *See* Am. Compl., *In Re Bed Bath & Beyond Section 16(b) Litigation*, No. 22 Civ. 9327 (S.D.N.Y. Feb. 13, 2023), ECF No. 28 (the "**Cohen Amended Complaint**"). Defendants Ryan Cohen and RC Ventures LLC (the "**Cohen Defendants**") do not object to the Amended Complaint's filing. However, the Cohen Defendants respectfully request that the Court extend their time to move to dismiss the Complaint filed by Todd Augenbaum (the "**Augenbaum Complaint**") and set a new briefing schedule for Defendants' motion to dismiss both Complaints, so that such briefing can proceed in a consolidated manner, consistent with the Court's December 12, 2022 Order consolidating the Augenbaum and Cohen cases.

In accordance with Individual Rule I.D, the Cohen Defendants propose the following briefing schedule for their motion to dismiss both the Cohen Amended Complaint and the Augenbaum Complaint:

- The Cohen Defendants shall file their omnibus motion to dismiss both complaints in this consolidated action on March 3, 2023.
- Plaintiffs shall file their opposition papers on March 24, 2023.
- The Cohen Defendants shall file their reply papers on March 31, 2023.

Counsel for the Cohen Defendants contacted all parties on February 13, 2023 to ask whether they would consent to the proposed schedule. Counsel for Plaintiffs have indicated that they are still considering this



request. Nominal defendant BBY consents to the proposed schedule. This is the Cohen Defendants' first request for an extension of deadline.¹

Sincerely,

/s/ Clifford Thau

Clifford Thau

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¹ The Cohen Defendants are cognizant of Individual Rule I.D's requirement that all requests for extension of deadlines be made within two business days prior to the scheduled deadline. We respectfully request that the Court nonetheless consider this request as the Cohen Amended Complaint was filed on the evening February 13, 2023, and the briefing deadline is February 15, 2023.